

1900-ade Chancery Causes: Emily J. Harber vs. J. K. Osborne &c  
Lee Co.

Shelton, Johnson, Kinser, Scott, Worley, Turner

1 Plat

CA-Estate Dispute  
T-Property



To the Honorable W.T. Miller Judge of the Circuit Court of Lee County Virginia:

Humbly complaining, your Oratrix, Emily J. Harber, would respectfully represent and show unto to your honor, that your Complainant's Father Robert Shelton, was in his life time seized and possessed of certain real estate, lying in the County of Lee State of Virginia, situated about Nine miles West of Jonesville, and bounded by the lands of Put Kinser, Con Kinser and others containing about        acres, and being so thereof seized and possessed, sometime in the year 18        departed this life intestate, leaving your Oratrix, Abraham Shelton, John Shelton heir at law of Wm. Shelton dec. Fanny Johnson nee Shelton, Dorcas Kinser nee Shelton Nancy Scott nee Shelton, Polly Johnson nee Shelton, Eliza Worly nee Shelton his only children and heirs at-law. that John Shelton, Dorcas Kinser, and Abraham Shelton, have each sold their undivided interests in said real estate to Andy Johnson, that Eliza Worly and Polly Johnson have sold their undivided interests to J.K. Osborne, that your Oratrix is entitled to one-eighth interest in said land, that Andy Johnson is entitled to three-eighths, Fanny Johnson one-eighth, Nancy Scott one-eighth and J.K. Osborne two-eighths; that said land has never been partitioned; and your Oratrix further states, that the said real estate is as she believes, ~~is~~ susceptible of partition amongst the parties entitled thereto.

The prayer of your Oratrix therefore is: that Fanny Johnson, Andy Johnson Nancy Scott, and J.K. Osborne be made parties defendant to this suit and answer the same, but not on oath, that being waived; that the said real estate be divided between the parties aforementioned entitled thereto, and your Oratrix's portion thereof allowed to her; that a Commissioner be appointed to take an account of the rents and profits of said real estate for the last five year, and said rents be properly apportioned; that in case said real estate be indivisible, that the same be exposed to sale, and the proceeds thereof be distributed among the parties entitled thereto; that proper process may issue, and that such other further and general relief may be afforded your Oratrix as the nature of her case require, or to equity seem meet. And your Oratrix will ever pray, &c.

M. G. Ely. P.O.



Emily J. Harber-

vs. Billin Chauncy-

J. H. Osborne et als-

1899. Feby. 2<sup>nd</sup> Rules. - Bill  
filed. Spa executed.  
Defts. fail to appear.  
Decree nisi.

1<sup>st</sup> Meh Rules held  
last Monday in Feb-  
ruary. - Decree  
nisi confirmed.

Bill taken for con-  
fessed. Cause set  
for hearing.



Virginia,

In the Circuit Court of Lee County.

-----The joint demurrer and answer of Fannie Johnson, Andy Johnson, Nancy Scott and J. K. Osborne to a bill filed in this honorable Court by Emily J. Harber. For demurrer thereto, these respondents say, that said bill is not sufficient in law, but should any or further answer be necessary, answering they say: That it is true that Robert Shelton departed this life on the 6-day of Dec-----1879, seized and possessed of the real estate in complainant's bill mentioned, and leaving the heirs therein mentioned, and it is also true that certain of said ~~heirs~~ heirs have sold and conveyed their interest as therein alleged, but it is not ~~the~~ true that the plaintiff owns, or is entitled to, one-eighth or ~~any~~ any other interest in said land; and it is not true that said land has ~~never~~ never been partitioned among those entitled thereto. Your respondents will now show unto your honor how this matter is----After ~~the~~ the death of the said Robert Shelton there came into the hands of your respondent--Andy Johnson---as his administrator, a note for \$100.00 on Joel Turner, who was then the husband of the plaintiff. This note was executed by the said Joel Turner to the said Robert Shelton, six or seven years before the death of the latter, and was given by the said Turner ~~to~~ to the said Shelton for a note of about the same amount that the said Robert Shelton held on his son, Abe Shelton; and the said ~~Turner having~~ Turner having purchased a tract of land of the said Abe Shelton at the price of \$400.00, he used the said note on the said Abe Shelton in part payment for said tract of land. And at the death of ~~the~~ the said Robert Shelton the note held by him on the said Turner ~~then~~ then amounting to about \$130.00 was turned over by his ~~administrator~~ administrator, the said Johnson, to the said Joel Turner and the plaintiff, his wife, as and for the full share or interest of the plaintiff in and to the real and personal estate of the said Robert Shelton, ~~deceased~~ deceased, and was received by them as such. This arrangement and agreement was made and carried into effect by the consent of the said Turner and wife, and the other heirs of the said Robert Shelton, deceased, and the remaining seven heirs of the said Shelton on the 24th and 25th days of December 1879, partitioned the real and personal ~~estate~~ ta te ~~belonging~~ belonging to said estate among themselves equally



pursuant ~~ex~~ to the said agreement with said Turner and wife. The said Turner and wife being present and consenting thereto and the said Turner assisting in said partition--Said partition was made by C. C. Elliott, Jas. D. Morgan and A. C. McNiell, Commissioners selected by ~~the parties~~, they all being of age and capable of acting in the premises. *A plat thereof is herewith filed as part hereof marked "Plat"* After all this, and at the first September rules 1895, the ~~plaintiff~~ plaintiff filed her bill in this honorable Court in the nature ~~of~~ <sup>type</sup> of a creditors' bill, by which she sought to recover and collect \$ from ~~the~~ the estate of Joel Turner, deceased, the amount of said note, in this suit a Commissioner was appointed to settle the account of the ~~administrator~~ administrator of Joel Turner, deceased, and report the debts unpaid, etc., and said Commissioner having made and filed his report, in which he reported on the plaintiff's said claim, a decree was rendered in the said cause dis-allowing the claim--the evidence showing ~~that~~ <sup>that</sup> the amount of said note went into and paid in part for the land ~~and~~ <sup>which</sup> ~~owned~~ <sup>death</sup> ~~by~~ <sup>occurred on the</sup> ~~the~~ <sup>day of</sup> ~~said~~ <sup>1885</sup> Joel Turner, deceased at the time of his death and purchased ~~as~~ as aforesaid from the said Abe Shelton. The plaintiff was ~~then~~ <sup>and</sup> permitted to amend her ~~bill~~ <sup>bill</sup> in said cause and seek a partition of said Joel Turner land, and to assert her claim ~~to~~ <sup>for</sup> a one-fourth interest therein, on account of having paid into the ~~same~~ <sup>the</sup> the amount of said note; and at the second May rules 1897, the said amended bill was filed, and the cause coming on to be further ~~heard~~ <sup>heard</sup> upon ~~the~~ <sup>the</sup> amended bill, the Court was of opinion that the plaintiff ~~was~~ <sup>was</sup> entitled to one-fourth of said tract of land in fee-simple, on account of having paid the amount of said note on the purchase price thereof; and C. C. Elliott, C. D. Smith and P. D. Kinser were appointed Commissioners ~~to~~ <sup>to</sup> to partition the said land and did so and made their report assigning to the plaintiff one-fourth of said tract in fee-simple ~~in~~ <sup>in</sup> simple, and dower in the remaining three-fourths, which report was afterwards confirmed by decree in said cause---all of which will more fully ~~and~~ <sup>and</sup> at large appear from the papers and proceedings in said cause, styled Emily J. Harber vs. R. D. Flanary, Adm'r, et als., remaining on file in your honor's Court, to which reference is here made, and ~~which~~ <sup>which</sup> are asked to be read and considered herewith. Your respondents therefore allege that the plaintiff is not entitled to have said real estate of Robert Shelton, deceased, partitioned as she has no interest whatever



interest whatever in the same, and the said real estate has long since been partitioned by, and among, those entitled thereto, and those entitled and ~~xxxx~~ their vendees have been in possession of said real estate using and cultivating the same as their own ever since the ~~25th~~ <sup>and have made permanent and valuable improvements thereon,</sup> 25th day of December 1879, their said possession being notorious and continuous and with the knowledge of the plaintiff and adverse to her <sup>and your respondents invoke the statute of limitation against plff's claim which they</sup> and all ~~the~~ the rest of mankind; and your respondent Andy Johnson as administrator of Robert Shelton, deceased, on the 15th day of August 1883, made a final settlement of his account before J. A. G. Hyatt, Commissioner of Accounts, which settlement was confirmed and duly recorded, and which shows that the said personal estate after the payment of debts, expenses, etc., was distributed to the said seven heirs and nothing paid to the plaintiff. She has lived in the neighborhood of Robert Shelton's estate ever since and before his death, and no complaint has ever been made by her to any of your respondents, as to her not having received her due proportion of said real and personal estate, and no complaints or demands have ever been made by her <sup>or upon</sup> to your respondent, Andy Johnson as such administrator, for any part of the said personal estate, <sup>and no claim has been asserted by her on said real estate until</sup> after she received said note as her full ~~share~~ share. And your respondents are astonished at the claim now <sup>they</sup> here asserted. And now having fully answered, pray to be hence dismissed with their reasonable costs, which they have so unjustly been forced to incur in this behalf.

Chas. B. Lauhenship P.D.

allage is barred thereby.  
the institution of this suit.



The foregoing answer is excepted to from the index marked on first page, to the end; Because it does not set up any legal matter of defense in this suit; The Ahe Shelton land, and Joel Turner land transactions are irrelevant as far as this suit is concerned - If the plaintiff has ever received her interest in the real estate of her father see, there ought to be higher and better proof than that exhibited with defendants answer - The whole defense set up by said answer - is irrelevant, and because the proceedings in the chancery cause of Piff. vs. R. D. H. many others are irrelevant as to the purpose of this suit,

M. Y. Gately  
Att'y for Piff.

L.D.

closed to incur in this behalf.

incurred with their reasonable costs, which they have so unjustly been

here asserted. And now having fully answered they to be hence dis-

missed. And your respondents are satisfied at the claim now

of the said personal estate, after she received a bill note as per bill of

so your respondents, and Johnson as such administrator, for any bill

note estate and no complaint of a wrong have ever been made by her

as to her not having received her due proportion of said test and her

and no complaint has ever been made by her to any of your respondents

brotherhood of Robert Shelton, a estate ever since and before his death

netts and nothing said to the District. She has lived in the neigh-

ment of debts, expenses, etc., was distributed to the said seven

corred, and which shows that the said personal estate after the pay-

commissioner of accounts, which settlement was confirmed and duly re-

1882, made a final settlement of his account before J. A. C. H. H. H.

administrator of Robert Shelton, deceased, on the 12th day of August

and all as the test of marking; and your respondents, and Johnson as

confessors and with the knowledge of the District and adverse to her

20th day of December 1882, their said possession being notorious and

are safe being and enjoying the same as their own ever since the

title and said their vendees have been in possession of said test es-

been partitioned by and among those entitled thereto, and those en-

interest whatever in the same, and the said test estate has long since



O. B.

Defts Costs Clerk 101

Emily J. Hanber

28. Anzures of  
J. R. Osborne, et als.

J. R. Osborne, et als.

Filed in Open Court and  
by leave thereof March  
the 9th 1899

A. B. Minsey Clerk

Clerk 3.56  
Tax 1.50  
Sheriff 2.00

\$7.06  
\$15.00

\$22.06



Emily J. Barker

against

J. K. Osborn et als. Defs.

Off

In chancery

On the calling of this cause, it appeared to the Court, that at the November term <sup>1899</sup> of this Court it was suggested upon the record in the cause, that the plaintiff had departed this life; and that more than two terms of the Court had passed since said suggestion, and no steps had been taken to revive the cause in the name of the plaintiff's administrator or her heirs, On motion of the defendants by their counsel, and the cause being argued by counsel, It is adjudged, ordered and decreed that this cause be dismissed and stricken from the docket.



Emily J. Parker  
vs. Decree Final  
J. K. Osborn et al.  
Entered O.B. 6 P. 434

Enter this decree  
H C W Stein  
100 8th 1900.



Emily J. Barber  
against

Plaintiff

Inchy

J. K. Osborn et al. Defendants

On the calling of this cause, the defendants suggested that the plaintiff has died since the last term of the Court. And the Cause is continued.



Emily J. Barker

1853 Order

J. K. Johnson & Co.

Entered on  
Chy. O. B. No 6.  
Page 309.

Enter this decree

to a woman

Nov 13<sup>th</sup> 1879.



Emily J. Harber

against

J. K. Osbourn et als Defs

Plff.

In Chancery.

On motion of the defendants leave  
is granted them to file their joint  
denumer and answer to plaintiffs bill  
and the same was filed and the plain-  
tiff entered exceptions on said ans-  
wer, which being argued, and sustained  
in so far as said answer fails to  
allege permanent, valuable ~~and~~ ~~con-~~  
~~ment~~ improvements made on said  
land by the defendants or their vendors,  
since their purchase of plaintiffs interest.  
And on motion of defendants leave  
is granted them to amend said answer  
in that particular, which amendment



Emily J. Harber

vs { Decree No 1.

J. K. Osborn Ad.

En C.O.B.C p. 271.

was made at law, and the plaintiff  
replied generally to said answer. It  
understand. And the cause is continued.

Enter this decree

W. F. M.

Mar 18<sup>th</sup> 1899.



Division of the Land  
of Robert Shelton

December the 21. & 25

1879

1896 12

1879 12

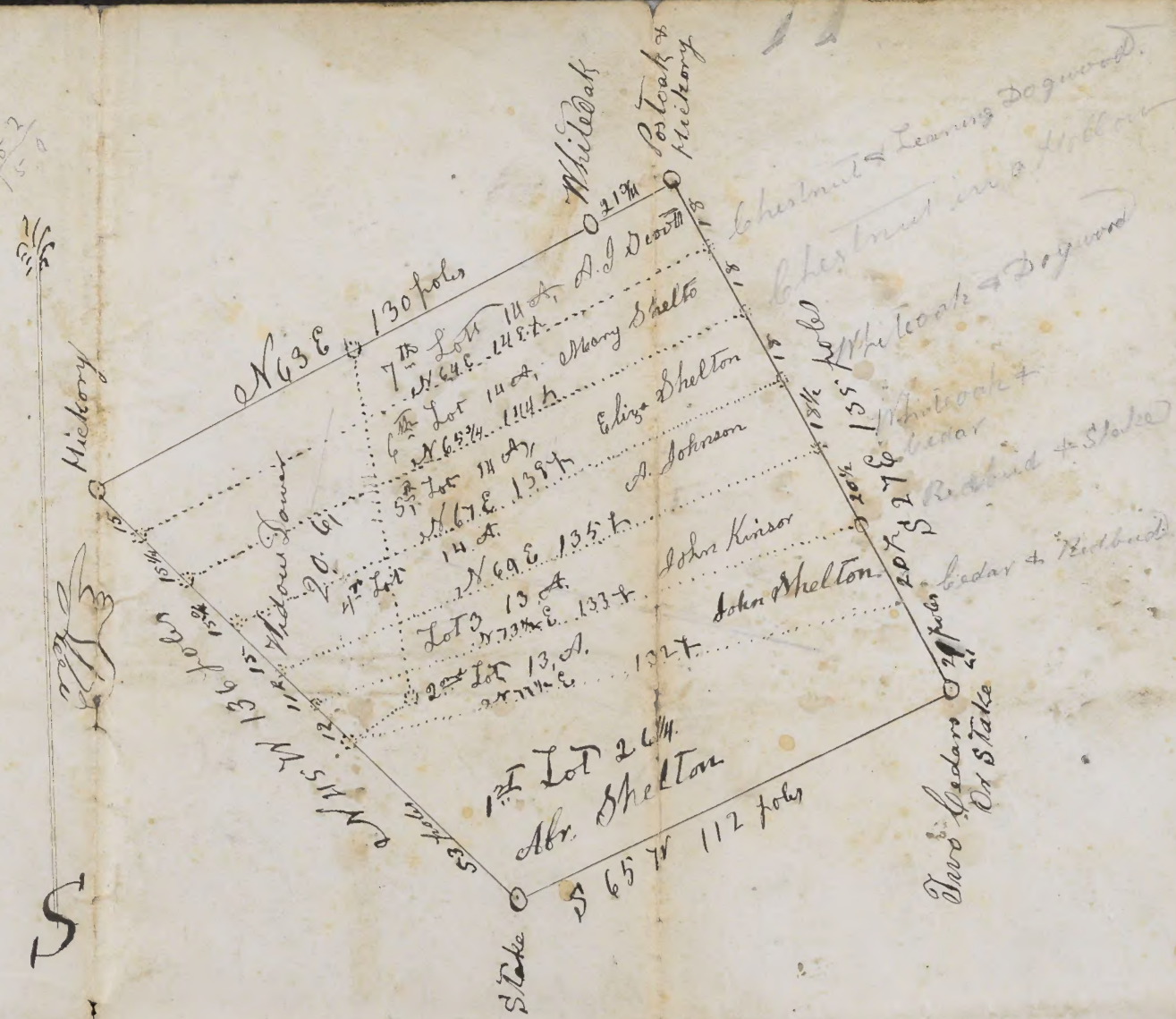
17

Plat.

186-  
5-30  
43-



256250



5th December  
6th " A. G. Scott.  
7th

A. g. -

$$\begin{array}{r} 139 \\ 64 \\ \hline 7.65 \end{array}$$



Supposed copy of  
lost note, called for  
by E. W. H. Ewing at

12  
13  
14  
15  
16  
17  
18  
19  
20  
21

\$100 -

One day after date I promise to pay to  
Robert Shelton one hundred dollars for  
value received, waiving my homestead exemption  
as to this debt, witness my hand and seal  
This the - day of - 1876

Jos. Turner 